

Task Force on the Future for Growth and Development in Maryland

Extract of Recommendations from December 1, 2008 Report

“Where Do We Grow From Here?”

(Numbering Corresponds to “R-#” in Report)

1. The Task Force believes the revised Visions are more consistent with, and will further, Maryland’s ongoing aspiration to develop and implement sound growth and development policy -- particularly Smart and Sustainable Growth. It recommends the enactment of legislation adopting these new Visions in the 2009 General Assembly session.
2. The Task Force recommends amending Article 66B to remove any ambiguity created by *Terrapin Run* and clarify that a local jurisdiction must implement and follow the comprehensive plan it adopts, as contemplated by the State’s Economic Growth, Resource Protection, and Planning Act of 1992. Any such amendment should be tailored to avoid unintended consequences within Article 66B or other areas of the State’s planning laws, and to preserve the distinction between the comprehensive plan as an overarching policy document and land use ordinances and regulations that implement it.
3. MDP, in coordination with each local government, adopt a policy for meeting early in the comprehensive plan development process to coordinate and collaborate about the jurisdiction’s comprehensive plan, and to facilitate local consideration and potential incorporation of State comments into the plan before its adoption. Adoption of State comments would remain in the discretion of the local government.
4. The State should identify additional resources for providing technical and/or financial assistance to local governments for development and implementation of their comprehensive plans. Existing non-profit and university resources should be examined as potentially efficient ways to provide such assistance. Currently, some counties are providing planning assistance to their municipalities, and such voluntary planning collaboration should be encouraged.
5. MDP should work with local governments and other stakeholders, including the Task Force itself, to jointly develop a set of Smart and Sustainable Growth indicators that can be used at the local, regional and state levels. The Task Force recognizes that application of these indicators will necessarily vary among jurisdictions due to regional and other local distinctions. Drafts of these indicators should be shared with the Task Force by **July 1, 2009** for review and comment.
6. The Task Force will study PFAs as a Focus Area of its ongoing work, with the intent of providing by **November 1, 2009** a critical analysis of the effectiveness of PFAs along with recommendations for possible changes.
7. The State and local governments should work cooperatively to promote appropriate levels of development at existing transit station areas to support and utilize the significant public investments in this expensive infrastructure. Existing transit stations should be a focus of state-local collaboration.

8. MDOT should study feasible public actions, both fiscal and programmatic, to support increased capacity for Maryland's future growth. Specifically, MDOT should study the feasibility and relationship of system and site-level investments required to support focused growth around Maryland's existing transit network, and the opportunities and barriers for such investments should be identified and investigated. This activity must involve active participation from both local and State agencies, as well as other stakeholders.
9. The State should encourage compact development and mixed land uses in PFAs around transit areas. Local governments should respond by providing policy, programmatic, and regulatory frameworks that support development patterns that are walkable and transit supportive, and within a reasonable walking distance (typically 1/2 mile) of existing transit service. These measures should in turn promote mixed-income housing, employment and transportation alternatives that are more efficient, affordable and cost-effective. Substantial State incentives may be required to achieve these outcomes.
10. State TOD incentives should be provided to local governments that adopt agreed-upon, TOD-friendly planning, zoning, TOD supportive infrastructure policies and financing, TOD supportive housing programs, design and/or other measures that enable and permit high-quality TOD within existing transit station areas.
11. Support local government adoption of TOD-friendly planning, zoning, and infrastructure investment. State agencies can assist through the development of TOD-supportive housing programs, model zoning codes and technical assistance to help define community-appropriate, customized solutions that promote active, income-diverse, pedestrian- and transit-friendly communities. Local governments should also have more flexible authority to use local revenue sources to support TIFs or bonds connected with the creation of TOD infrastructure.
12. Create a capitalized TOD Revolving Loan Fund to provide gap financing for TODs. This program might be administered similarly to the DHCD Neighborhood Business Development Program, which incentivizes the creation of small business in targeted community revitalization areas.
13. Define and implement a program for financing bicycle and pedestrian facilities in all TODs, and for financing structured parking for TODs where necessary to encourage redevelopment of surface lots. The Maryland Transportation Authority or the Maryland Economic Development Corporation could act as the financing agency.
14. Provide the State's full faith and credit to TOD-zone TIF districts as a means of sharing costs associated with TOD. Engaging the State's credit on behalf of some or all investor return will reduce the risk and therefore the cost of TOD development. The State could also provide a tax credit by exempting interest payments on such bond financing from state income tax.
15. Recognizing that the State's financial commitment to its land preservation programs is essential to their success, the Task Force recommends that the State maximize available resources for important preservation programs including the Critical Farms Program, the Next Generation Farmland Program, the Installment Purchase Agreement Program, the Maryland Agricultural Land Preservation Program, the Rural Legacy Program, the Maryland Environmental Trust, and Program Open Space. The Task

Force strongly encourages that funding sources for land protection and preservation be protected and never diverted to other uses.

16. The State should make every effort to maximize its expenditures for land preservation programs, but should also concentrate its expenditures for land preservation programs where the substantial investment is also protected by local land use management authority such as zoning, subdivision regulations, Priority Preservation Areas, or other facilitators of Smart Growth.
17. State and local governments should; look at comprehensive approaches to land preservation beyond purchasing land for preservation. While additional State funding for such programs is critical, local governments should also strengthen land management tools (e.g., protective rural zoning and subdivision regulations) for rural lands to protect existing resource-based industries, thereby decreasing the incentive for land owners to sell their land for development. The Maryland Association of Counties believes, however, that this local government action should only be undertaken once the State has met its funding commitments to land preservation. Usually, successful downzoning of agricultural land has been accompanied by aggressive easement acquisition, such as in Baltimore County.
18. MDP should convene an inter-agency and inter-governmental workgroup, including State and local stakeholders, to explore the viability of TDR programs at all levels. The workgroup should report back to the Task Force with an interim report by **July 1, 2009**, and a final report by **November 1, 2009**.
19. MDP, in conjunction with other State agencies, local governments, and the Task Force, should develop and implement changes to the 2004 survey format to maximize its usefulness for the purposes described. Local governments should participate fully in completing the survey, whose utility will be compromised if data is incomplete.
20. The Department of Legislative Services, the entity with access to the broadest spending and budget data, should be asked to complete a historical infrastructure study by **November 1, 2009**, engaging the assistance and resources of other agencies and entities with access to relevant data and resources. The Maryland Agricultural Land Preservation Foundation, has recently studied its own efficiency and is actively pursuing improvements. This study may be a useful foundation for further efforts.
21. The Task Force supports DHCD's efforts to expand the Local Government Infrastructure Financing Program and requests that DHCD report to the Task Force, on an ongoing basis but no later than **June 1, 2009**, on the success of its efforts.
22. Particularly in view of the enormous demand for infrastructure and the practical limitations of the current financial climate, the State should provide counties and municipalities with the broadest possible authority for funding local infrastructure projects, including authority to use any reasonable tax, revenue source or financing vehicle. While the decision to use a particular tax or funding vehicle should always rest with local government, the State should continue to encourage local funding decisions that are consistent with the State's Smart Growth policies.
23. The State's planning laws (Article 66B) should be amended to:

- Require a local government that has an Adequate Public Facilities Ordinance (APFO) to report every two years to MDP whether the APFO results in an APFO restriction, moratorium, or capacity problem within a PFA. That report shall include the location of the restriction, type of infrastructure involved, and the estimated time for the resolution of the restriction.
 - Require MDP to prepare and publish a report every two years identifying geographic areas and facilities within PFAs that do not meet local APFO standards, and any improvements to those facilities that have been scheduled and/or proposed in the jurisdiction's Capital Improvement Program (CIP).
24. Jurisdictions should consider waiving APFO restrictions for workforce housing, affordable housing, and infill and revitalization projects within the PFA. Some jurisdictions already have waivers for these types of development. The final determination of waiver should be left to the local government, however.
 25. The State should identify new funding sources to be used for infrastructure improvements within PFAs to support Smart Growth. State funding decisions should give high priority to infrastructure projects that remove reasonable APFO restrictions, moratoria, or other capacity problems that stop or limit development within PFAs or reimburse local governments for forward funding of these projects. An inter-agency and inter-governmental Workgroup should be convened to study alternative approaches to raising such revenues, with the results reported back to the Task Force by **November 1, 2009** for further review and recommendations.
 26. Article 66B §11.01 should be amended to authorize local governments to establish a transfer of development rights program to facilitate the purchase of land for a school or other public facility within a PFA. Under this approach, the pre-existing development rights associated with property selected to become a school or other public facility could be sold to a third party, who would use those development rights to obtain increased density on land elsewhere within the community served by the school or public facility. Proceeds of the sale of development rights would be used to help purchase the public site and/or construct the facility. (Article 66B §11.01 currently provides that "a local legislative body that exercises authority granted by this article may establish a program for the transfer of development rights to: (1) Encourage the preservation of natural resources; and (2) Facilitate orderly growth and development in the State.").
 27. Voluntary communication and cooperation among the counties, municipalities, and their local boards of education should be encouraged, especially with respect to growth and capacity issues. Local jurisdictions and their boards of education should meet at least twice a year to discuss how the jurisdiction and board will handle growth issues related to school capacity, student growth projections, and where possible, the siting of school facilities in a manner consistent with sound land use and public facilities planning.
 28. The State should work to increase the quality and quantity of demographic information available to school boards to better project trends in student population. Officials should use student generation rates based on actual experience and consider geographical differences. Officials at all levels should cooperate on strategies to increase enrollment at schools that are under capacity.

29. MDP should prepare a study on the practicality of building vertical "urban" schools in the more densely built areas of PFAs. The study should also consider the practicality of making schools part of a mixed use or transit oriented development project and co-location of public facilities.
30. The State should examine the adoption of a 6-year CIP for school construction, instead of the current 1-year CIP, to give localities more predictability in funding.
31. The State should study the efficacy of making school construction decisions subject to PFA review, in a manner similar to state spending decisions on water, sewer, and transportation infrastructure. The Task Force discussed the merits of such a policy at length and reviewed multiple options prepared by its APFO Workgroup, as well as alternates prepared by other Task Force members. Copies of these proposals are attached as Appendix H.3. Ultimately, the Task Force supported applying PFA review, with a modified exception process, to the new construction of new schools outside of PFAs. However, it concluded that more time was required to consult further with various stakeholders. Using the Task Force's work as a foundation, MDP should work with the Interagency Committee on School Construction (IAC), the counties, and the education community to study the issue, including the process of applying PFA review to the construction of new schools outside of PFAs and the possibility of extending such review to capacity enhancements of existing schools outside of PFAs. MDP should provide a report to the Task Force by July 1, 2009 for further discussion and recommendations.
32. Develop new funding sources to support Department of Housing and Community Development and local government affordable and workforce housing activities, complementing Congress's recent establishment of a National Housing Trust that may send additional resources to states by 2020.
33. Work with Federal representatives to grow Federal formula-based housing and community development funds such as HOME, Community Development Block Grant (CDBG), Low Income Housing Tax Credits, Mortgage Revenue Bonds, Housing Choice Vouchers, and Public Housing funds.
34. Encourage local governments to adopt local affordable housing strategies including housing trust funds, inclusionary zoning, land trusts, payments in lieu of taxes and waivers for local impact and development fees for affordable housing.
35. Target existing and new resources where possible to projects that help people of modest income live near where they work or near viable transit options.
36. Continue its proactive emphasis on preserving homeownership in the face of the national foreclosure crisis, and plan for the longer term by helping families strengthen their household financial management and savings plans.
37. Maryland communities should better incorporate housing affordability into planning activities to help guide land use, zoning, and other development-related decisions. Consideration should be given to including in local comprehensive plans housing market information, a discussion of available affordable housing, an analysis of housing availability in the context of employment, as well as goals and strategies to address these and related issues.

38. The use of community land trusts in Maryland should be studied further by the Department of Housing and Community Development, working with local governments, advocates, and the community, to determine whether community land trusts can help meet Maryland's affordable housing needs. An initial report should be presented to the Task Force by **July 1, 2009**.
39. As a Focus Area for the next phase of the Task Force's work, the Task Force will review, categorize, and assess the State's existing revitalization incentives. The Task Force will also review best practices and ideas from competing jurisdictions and around the country and recommend additional incentives that are cost-effective and economically efficient, yielding an acceptable return on the State's investment. A report should be produced by the Task Force by **July 1, 2009**.
40. As part of its work under recommendation 9(A) above, the Task Force will focus on revitalization incentives directed at supporting the location of small businesses in revitalization areas.
41. The Maryland Heritage Structure Rehabilitation Tax Credit Program should be reauthorized and extended by the Governor and General Assembly in the 2009 Session, and jurisdictional and aggregate caps should be removed, allowing the program to continue providing an extraordinary return on investment for the State.
42. The State should secure full funding for the hydrologic studies and expanded monitoring network.
43. Phase II of the Trading Policy should be completed and released for comment as soon as possible, but no later than **April 1, 2009**. Upon its release, the Task Force will review the Policy and make recommendations for further action.
44. The disparity between the non-regulation of nutrient pollution from onsite sewage disposal systems and the regulation of wastewater treatment plants should be corrected by requiring that all new Onsite Sewage Disposal Systems install Best Available Technology or pay a fee *in lieu*.
45. MDE should convene a stakeholder group to discuss the adoption of regulations. Aspects of State water law, if any, that hamper implementation of this practice and options for eliminating barriers to implementation of new regulations should be identified.
46. MDE should carefully review existing standards and the programs of other states to develop policies and regulations that maximize opportunity for water reuse without compromising public health. In addition, MDE should explore the use of State funds to help jurisdictions acquire rights for land application of treated wastewater. A status report should be submitted to the Task Force for further review and comment by **July 1, 2009**.
47. In its next phase of work, the Task Force will review the Climate Action Plan and consider whether to make growth and development-related recommendations concerning the actions identified in the Plan.
48. The Task Force will work with MDP, DHCD, and MDOT on development of their State Development Plan, State Housing Plan, and State Transportation Plan by providing

guidance, feedback, and support as the Plans are prepared. This critical component of Maryland's future land use planning will be a Focus Area for the balance of the Task Force's work.

49. MDP, MDE, and other relevant agencies should meet with local government representatives, and other stakeholders as appropriate, to evaluate potential internal conflicts and/or inconsistencies in State land use law, regulations, and policy, including but not limited to those identified to date. Findings should be reported back to the Task Force for further discussion, evaluation and action, if necessary, by **July 1, 2009**.
50. As a Focus Area during the balance of its work, the Task Force will create an Education Workgroup to review existing Smart Growth educational materials as well as past efforts. The Workgroup, including Task Force members, State and local agency representatives, the National Center for Smart Growth, and additional educators to be recruited, should jointly design a Smart Growth curriculum to educate the public and, where appropriate, local officials (especially when newly elected or appointed) about the growth and development challenges faced by Marylanders. Plans and programs should be made relevant to address the specific and local needs of individual jurisdictions.
51. The Task Force supports the reinvigoration of the MPCA as a valuable component of Maryland's Smart Growth agenda.
52. The State should reconstitute a broad-based statewide planning advisory committee including State and local officials, interest groups, and private citizens. The group will serve as an officially-recognized forum for discussion of growth and development issues by a diverse group of stakeholders. The entity should be created by statute upon the expiration of the Task Force in **December 2010**, with the Task Force offering recommendations on its scope and structure.